

**Solid Waste Management Act**  
**Strikethrough Version Showing 2007 Amendments**

**§ 68-211-813. Regions**

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(c) Each region shall develop a plan for a ten-year disposal capacity, and for achieving a ~~twenty five percent (25%) waste reduction goal in accordance with~~ compliance with the waste reduction and recycling goal required by §68-211-861.

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**§ 68-211-815. Plans and specifications; contents**

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(b) At a minimum, each plan and revised plan submitted by a municipal solid waste region shall include the following:

- (1) Demographic information;
- (2) A current system analysis of:
  - (A) Waste streams, including data concerning types and amounts generated;
  - (B) Collection capability, including data detailing the different types of collection systems and the populations and areas which receive and do not receive such services;
  - (C) Disposal capability, including an analysis of the remaining life expectancy of landfills or other disposal facilities;
  - (D) Costs, using a full-cost accounting model developed by the commissioner, including costs of collection, disposal, maintenance, contracts and other costs; and
  - (E) Revenues, including cost reimbursement fees, appropriations and other revenue sources;
- (3) Adoption of the uniform financial accounting system required by §68-211-874;
- (4) Anticipated growth trends for the next ten-year period;
- (5) Anticipated waste capacity needs;
- (6) Planned capacity assurance, including descriptions of planned or needed facilities;
- (7) A recycling plan, including a description of current public and private recycling efforts and planned efforts to enhance recycling within the county or region;
- (8) A plan for the disposal of household hazardous wastes;
- (9) Adoption of uniform reporting requirements as required by this part;
- (10) A description of waste reduction and recycling activities designed to attain the ~~twenty five percent (25%) reduction goal~~ required by §68-211-861;
- (11) A description of education initiatives aimed at businesses, industries, schools, citizens and others, which addresses recycling, waste reduction, collection and other goals of this part;
- (12) An evaluation of multi-county solid waste disposal region options with an explanation of the reasons for adopting or failing to adopt a multi-county regional approach;

- (13) A timetable for implementation of the plan;
- (14) A description of the responsibilities of the various participating jurisdictions;
- (15) A certification from the region's part 9 solid waste authority, if such an authority has been formed, or if no such authority has been formed, the county legislative body of each county in the region that they have reviewed and approved of the region's plan and/or revised plan; ~~and~~
- (16) A plan for managing solid waste generated as a result of disasters or emergencies; and
- (17) Any other information as the commissioner may deem relevant to the implementation of this part.

### **§ 68-211-816. Sanctions**

(a) If a municipal solid waste region fails to submit an adequate plan in a timely fashion or if the commissioner does not approve any plan submitted to it, or for any other noncompliance with a provision of this part, then the commissioner shall impose the following sanctions, as appropriate, on the noncompliant county or region:

- (1) ~~On the first instance of noncompliance and on written notice from the commissioner,~~ the commissioner shall issue a letter or warning to the noncompliant county or region indicating the reasons for noncompliance, setting forth the sequence of graduated sanctions for noncompliance and offering technical assistance to remedy the causes of noncompliance.
- (2) Any such noncompliance shall be resolved as soon as possible. If noncompliance continues for ~~ninety (90)~~ thirty (30) days after issuance receipt of the warning letter, the noncomplying county or region shall lose eligibility for funds from the solid waste management fund, unless the commissioner states in writing that due to particular circumstances a longer time is appropriate.
- (3) ~~If noncompliance continues for one hundred eighty (180) sixty (60) days after issuance receipt of the warning letter, then, in addition to any other penalty imposed by law, the commissioner may impose a civil penalty for each day of noncompliance beyond such one hundred eighty-day period of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each day of noncompliance beyond such sixty-day period.~~

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(c) Any person who violates §68-211-608, §68-211-866(a) or §68-211-867~~(a)~~(d) shall be subject to the penalties provided for in §68-211-117.

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### **§ 68-211-821. Fund; transfer of functions**

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(b) It is the legislative intent that all appropriations which are required for the implementation of this part and which are in addition to the funds available from the solid waste management fund established by this section shall be funded from appropriations which are otherwise available for solid waste management and related activities as appropriated in the general appropriations act. ~~In order to ensure the availability of such funds, the following functions are transferred to the department of environment and conservation, effective July 1, 1991:~~

- ~~(1) Duties assigned to the department of economic and community development, pursuant to §§68-211-826 and 68-211-827 [repealed]; and~~

~~(2) Duties assigned to the department of general services, pursuant to §68-211-865(1), (2), (3) and (4). The commissioner of finance and administration is directed to transfer all appropriations, personnel, equipment and other sources allocated to these programs to the department of environment and conservation for the fiscal year 1991-1992.~~

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**§ 68-211-826. Office of cooperative marketing for recyclables**

(a) From funds available from the solid waste management fund, the department of ~~economic and community development~~ environment and conservation shall establish an office of cooperative marketing for recyclables.

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**§ 68-211-828. Grants**

From funds available from the solid waste management fund, the department shall award competitive grants for collection of household hazardous waste at a permanent site to municipalities with a population of one hundred thousand (100,000) or more in counties with a population of two hundred eighty-seven thousand seven hundred (287,700) or more according to the 1980 federal census or any subsequent federal census and to the municipalities or counties that are determined by the department to be the next largest in terms of population and/or level of participation in mobile household hazardous waste collection events. An eligible municipality or county may only receive one (1) grant for the establishment of a permanent household hazardous waste collection site; however, if funds are available from the solid waste management fund, the department may award a municipality or county that has established a permanent household hazardous waste collection site annual grants to assist the municipality or county in maintaining and/or operating the permanent household hazardous waste collection site. A municipality or county that receives a grant pursuant to this section shall allow all residents of the county in which the ~~municipality site~~ is located to use the ~~site permanent household hazardous waste collection site~~ on the same basis as residents of the municipality. The mobile household hazardous waste collection service authorized by §68-211-829 shall not be provided in a county in which ~~a municipality has established~~ there is a permanent household hazardous waste collection site that was funded through a grant pursuant to this section.

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**§ 68-211-832. Grants for corrective action at closed permitted landfills**

From funds available in the Solid Waste Management Fund, the department may award a grant or grants to any county or municipality that operated a Class I landfill permitted by the department that is now closed and does not have a composite liner system in place if the department determines that the landfill is causing harm to health or the environment through contamination of ground water. The grant shall be used by the county or municipality for the purpose of investigation or corrective action at such landfill. The amount of the grant shall be set at an amount sufficient to reimburse a county or municipality for not more than fifty percent (50%) of the total cost of investigation and corrective action of such ground water contamination as of the date of application for the grant. The solid waste disposal control board may promulgate such rules as it deems necessary or appropriate to effectuate this grant program.

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**§68-211-833. Hazardous Chemicals in Schools.**

Funds available in the Solid Waste Management Fund may be used by the department to provide for the proper disposal of hazardous waste or other materials, deemed by the department to pose a hazard to students or the environment, in public K-12 schools.

**§ 68-211-835. Tipping fee; surcharge; solid waste disposal fee**

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(d)(1) In addition to any tipping fee imposed by any local government under this section, there shall also be imposed a surcharge of ninety cents (\$0.90) ~~seventy-five cents (75¢)~~ per ton on each ton of municipal solid waste received ~~until June 30, 2008~~, at all Class I solid waste disposal facilities or incinerators.

(2) The operator of the municipal solid waste disposal facility or incinerator shall collect this surcharge and remit it to the state treasury to be paid into the state solid waste management fund, except that such operator shall be allowed a deduction of the surcharge due, reported, and paid to the department in the amount of one percent (1.0%) of the amount due on the report. No deduction from the fee shall be allowed if any such report or payment of the surcharge is delinquent.

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**§ 68-211-861. State waste reduction and diversion goal; credit; basis for goal; sanction for failure to meet goal**

(a) The goal of the state is to reduce by twenty-five percent (25%) the amount of solid waste disposed of at Class I municipal solid waste disposal facilities and incinerators, measured on a per capita basis within Tennessee by weight, ~~by December 31, 2003~~. As an alternative to calculating the waste reduction and diversion goal on a per capita basis, regions shall have the option of calculating the goal on an economic growth basis using the method prescribed by the department and approved by the municipal solid waste advisory committee. The goal shall also apply to each municipal solid waste region; provided, that the goal shall not apply to individual disposal facilities or incinerators. The base year from which reductions are to be measured is 1995, unless a region can demonstrate that 1995 data is clearly in error. The method of calculating goals based on economic growth using the method prescribed by the department and approved by the municipal solid waste advisory committee shall be promulgated as a rule in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) If a region does not meet the twenty-five percent (25%) waste reduction and diversion goal, then the department will objectively assess the activities and expenditures of the region and the local governments in the region to determine whether the region's program is qualitatively equivalent to other regions that meet the goal and whether the failure is due to factors beyond the control of the region. This qualitative assessment method shall be developed by the department and approved by the municipal solid waste advisory committee. The qualitative assessment method prescribed by the department and approved by the municipal solid waste advisory committee shall be promulgated as a rule in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) A county or region may receive credit toward the waste reduction and diversion goal established by this section for documented reductions from recycling and source reduction programs prior to 1995, but no earlier than 1985.

(d) The twenty-five percent (25%) goal pertains only to facilities which accept municipal solid waste for disposal or incineration. Measurements of waste are to be based on the amount of waste entering a disposal facility prior to combustion or landfilling. Measurements of waste disposed of shall not include materials that are recovered or collected for recycling. The department shall issue guidelines concerning, and promulgate by rule, a method for calculating source reduction and recycling.

(e) Failure of the region either to meet the twenty-five percent (25%) waste reduction and diversion goal, or to receive a favorable qualitative assessment of its activities by the department pursuant to subsection (b), may subject the offending counties and municipalities, including any solid waste authority created by such counties and municipalities, to sanctions in the same manner as a region may receive sanctions pursuant to §68-211-816. In the event the failure of a region to meet its waste reduction and diversion goals is due to the failure of less than all of the constituent counties or municipalities of the region, the commissioner may apply sanctions only to the counties, municipalities or solid waste authorities that have caused the failure.

(f) A county or region has the flexibility to design its own plan and methods which take into account local conditions for attaining the waste reduction and diversion goal set by this section. This plan shall be included as a part of the county or regional plan required by §68-211-814.

(g) The General assembly recognizes that the ways in which solid waste is generated and managed are very dynamic. The opportunities for recycling and for reduction of waste generated change with both market factors and technological developments. These in turn, affect the costs of solid waste management and recycling. Also there are many factors that change the feasibility of different approaches among the counties, in addition to population and amount of commercial and industrial activity, these include proximity to markets for recyclable materials and the solid waste activities of municipalities. In order to better address all of these changing circumstances, the solid waste disposal control board is authorized to adopt a rule promoting recycling and waste reduction. In so doing, the board shall consider the use of incentives, disincentives, public education, costs and benefits of recycling, and the widely varying circumstances of the different solid waste regions. Upon the effective date of such rule, the provisions of subsection (a) through (f) of this section, 68-211-861, will be repealed and of no further force and effect and the rule will be enforceable according to its terms and in accordance with section 68-211-816.

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#### **§ 68-211-865. Powers and duties**

~~In addition to the duties imposed on it by §§68-211-603(c) and 68-211-606, the~~ department of general services shall:

(51) Recycle surplus state property to the maximum extent practicable, under the program authorized by this part and under §12-2-404, which cannot be sold for reuse, notwithstanding the existence of any other provision of law, rules or regulations to the contrary;

- (62) Revise product specifications to require, to the extent economically feasible, the procurement of recycled products or products with recycled content;
- (73) Encourage all departments of state government to purchase products with recycled content or recyclable products from state contracts;
- (84) Encourage county governments to purchase materials with recycled content from state contracts in transactions under title 12, chapter 3, part 10; and
- (95) Effect procurement contracts which are subject to competitive bidding using specifications revised according to subdivision (62).

(b) The department of environment and conservation shall:

- (1) Expand to the maximum extent practicable the department's demonstration state office recycling program for paper, aluminum cans and bottles;
- (2) Expand such program to the maximum extent practicable to include other kinds of recyclable materials, including, but not limited to, newsprint, plastic bottles, mixed paper and steel cans; and
- ~~(3) Enter into an agreement with the department of correction to use inmates from state correctional institutions to the maximum extent practicable to collect, sort and market recyclables collected from such program at correctional institutions;~~
- (43) Demonstrate new uses of recovered materials;

**§ 68-211-867. Waste tire program**

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(b) For the purposes of this section, "beneficial end use" includes the following:

- (1) Cement manufacturing;
  - (2) Burning of tire-derived fuel in contained industrial boilers for the capture of energy;
  - (3) Production of tire-derived fuel, provided the department approves the planned use of the processed tire material;
  - (4) The crumbling or pyrolysis of tire material, provided the processor provides for the planned use of the processed tire material under such requirements established by the department;
  - (5) Recreational applications, including but not limited to, playgrounds, running tracks, and walking paths; or
  - (56) Any use otherwise deemed appropriate by the department of environment and conservation and for which either the board has promulgated rules or the department has developed and published policies; provided, that this section shall not be construed to require or mandate the use of products or materials resulting from waste tires. The board shall not promulgate any rules, and the department shall not establish any policies mandating the use of products or materials resulting from waste tires. It is the specific intent of the general assembly that any use of products resulting from the waste tire program is entirely voluntary on the part of the end user.
- ~~(c)(1) From funds available from the solid waste management fund, the department shall contract for services of a mobile tire shredder to operate throughout the state as waste tire disposal needs may require. If the department contracts for the services of a shredder with a county or municipality, such local government may receive a rebate on the state~~

~~surcharge paid in its locality on the tipping fee authorized by this part for the budget allocation for a shredder.~~

(1)(2) The department is authorized to use funds available from the solid waste management fund to contract directly with an approved beneficial end user or its designated agent for recycling of waste tires. Each beneficial end user or agent awarded such a contract shall demonstrate to the department's satisfaction the ability to provide collection, management and transportation to its facility of all eligible and available waste tires generated within the area or county specified by the department. Any such contract shall be subject to approval by the county legislative body of each county in whose territory the contract shall be operative. Any such contract shall also require an appropriate performance bond from any entity producing tire-derived fuel or crumbling or pyrolysis of tire material to insure proper storage, transportation and ultimate sale or disposal of such materials.

(2)(3) From funds available from the solid waste management fund, the department may provide grants to assist counties in locating, collecting and appropriately disposing of waste tires. Any county receiving a grant under this subdivision after July 1, 2000, shall not assess a tipping fee on the waste tires received at a county waste tire collection site so long as the amount of the grant covers the cost of the county's waste tire management program.

(3) From funds available from the solid waste management fund, the department may provide grants to local education agencies, municipalities or counties to utilize recycled shredded tires for recreational applications.

(4) Any county or entity requesting or applying for a grant or entering a contract with the department shall submit, prior to being approved for a grant or contract, a workplan and budget to reflect the expenditures of such grant or contract. Such grants or contracts are to fulfill the objective of recycling waste tires and to assure that all expenditures of the contracts, grants, and/or any additional local tipping fees are not exceeding the cost of the county's waste tire management program.

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#### **§ 68-211-871. Reports; injunctions**

(a) The department shall make available on its website by January 1st of each year the forms and information to be used by the regions to file an annual progress report. ~~Beginning on March 1, 1994, and annually thereafter, e~~Each region shall submit ~~an~~the annual report to the commissioner by March 31<sup>st</sup> for the immediately preceding calendar year, in a format to be determined by the commissioner, which will include data on the following:

- (1) Collection;
- (2) Recycling;
- (3) Transportation;
- (4) Disposal;
- (5) Public costs; and
- (6) Any other information which the board, by rule, may deem relevant to solid waste planning and management.

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#### **§ 67-4-1603. Amount; exemption**

(a) A pre-disposal fee in the amount of one dollar and thirty five cents (\$1.35) ~~(\$1.00)~~ per tire is imposed on each person exercising the privilege of making retail sales of new tires in this state.

(b) A person who is subject to and pays this fee is not liable for the fee for tires sold for delivery outside of this state.

#### **67-4-1605. Registration of retailers; tire shredder credits**

(a) Every person desiring to engage in the retail sale of new tires shall register for each place of business with the commissioner upon forms prescribed and furnished by the commissioner.

~~(b) Any person who has previously purchased a tire shredder and who wishes to obtain a credit for such purchase shall furnish proof of the purchase and the price of the shredder to the commissioner at the time of registration pursuant to this section.~~

#### **§ 67-4-1606. Quarterly returns and payments**

~~(b)(1)~~ It is the duty of all dealers on or before the twenty-fifth day of the month immediately following the close of the periods set out above to transmit to the commissioner, upon forms prescribed and furnished by the commissioner, returns showing the gross number of new tires sold at retail during the preceding quarter. A separate return shall be filed for each separate location or place of business.

~~(2) Any dealer who has previously purchased a tire shredder and has furnished proof of such to the commissioner shall be entitled to retain an amount equal to fifty percent (50%) of the pre-disposal fee imposed by this part as a fee credit. The amount of the credit allowed shall be equal to fifty percent (50%) of the purchase price of the tire shredder. Once credits have been taken by a dealer for the full amount allowed, no additional credit shall be taken pursuant to this section.~~

(d) Failure to file a the return and/or pay the fee due under this part prior to the date provided by this section shall cause the fee to become delinquent and subject to interest and penalties as provided in chapter 1, part 8 of this title §67-1-801. When any dealer fails to timely file the return required by this section or fails to timely pay any amount shown to be due on the return, the penalty provided in § 67-1-804(a) shall apply. Notwithstanding § 67-1-804(b) or any other provision to the contrary, when any dealer fails to report and pay the total amount of the fee determined to be due by the commissioner, there shall be imposed a penalty in the amount of fifty percent (50%) of the unpaid amount. If such failure is determined by the commissioner to be due to fraud, the penalty provided in § 67-1-804(c) shall apply. The penalty imposed by this subsection shall be subject to the waiver provisions provided in § 67-1-803.

**§67-4-1610. Fee Deduction – Amount.** For the purpose of compensating the dealer in accounting for and remitting the fee, a dealer shall be allowed a deduction of the fee due, reported and paid to the department in the amount of ~~ten percent (10%) of the amount due on the report~~ ten cents (10¢) per tire reported on the return. No deduction from the fee shall be allowed if any such report or payment of the surcharge is delinquent.



